

IXC & Non-Switched Local Exchange Applications and Tariffs

These procedures should be used for an Application for Certificate of Service Authority to provide Interexchange and/or Non-switched Local Exchange Telecommunications Services, defined as follows:

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SECTION I- **General Information**

Filings must conform to the Missouri Revised Statutes (<http://www.moga.state.mo.us/homestat.htm>) and 4 CSR 240-2.060-PSC Practice and Procedure (<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-2.pdf>) and 4 CSR 240-3 Filing and Reporting Requirements (<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>). Additional web page address links to statute and rule references are included throughout this packet. If the application does not conform to the Missouri Revised Statutes or 4 CSR 240-2, the application might be rejected until such time as all deficiencies are corrected. For additional information, contact the Telecommunications Department of the Missouri Public Service Commission at telcopsc@mail.state.mo.us.

1.0 Definitions

Interexchange Telecommunications Service – telecommunications service between points in two or more exchanges. Section 386.020 (24) RSMo. <http://www.moga.state.mo.us/statutes/c300-399/3860020.htm>

Local Exchange Telecommunications Service – telecommunications service between points within an exchange. Section 386.020 (30) RSMo. <http://www.moga.state.mo.us/statutes/c300-399/3860020.htm>

1.1 Procedure and Timeline

An original and 14 copies of all filings are submitted to the Missouri Public Service Commission (PSC or Commission) at the following address.

Mr. Dale Hardy Roberts, Chief Regulatory Law Judge/Secretary
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102

One copy of the filing and the cover letter shall be served on the Public Counsel [4 CSR 240-2.080 (4) <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-2.pdf>] at the following address.

Office of Public Counsel
200 Madison Street, Suite 650
P.O. Box 7800
Jefferson City, MO 65102

The “file date” is the date when any document is accepted and logged by the PSC Records Department. The tariff associated with an application for Certificate of Service Authority to provide Interexchange and Non-switched Local Exchange Telecommunications Service (application) will have a 45-day effective date. The 45 days begins with the date filed at the Commission. The State of Missouri observes the following holidays:

New Year’s Day (Observed)	Independence Day (Observed)
Martin Luther King, Jr. Day	Labor Day
Lincoln Day (Observed)	Columbus Day
Washington’s Birthday (Observed)	Veterans Day
Truman Day (Observed)	Thanksgiving Day
Memorial Day	Christmas Day (Observed)

If additional information is required, it may be necessary to file substitute/replacement tariff sheets and it may be necessary to extend the effective date. The effective date should only be

extended via cover letter. The issue and effective dates of the original tariff filing and any substitute/replacement sheets remain unchanged from the original filing.

Within approximately 3 weeks, the Commission will issue a Notice of Application, a legal document that informs interested parties of the filing. The Notice will provide a description of the Applicant's purpose and the PSC waivers requested by Applicant. The Notice will also establish a date (approximately 30 days from the Notice issue date) by which interested parties may intervene. Parties wishing to intervene must file a Motion to Intervene.

After the Telecommunications Department Staff (Staff) reviews the application and the intervention time allowance has lapsed, Staff files, into the official case file, a "Staff Recommendation" for Commission approval, rejection, or suspension. The Commission will issue its decision prior to the effective date of the tariff.

1.2 IXC's: Switched/Non-Switched

IXC services are of two types: switched and non-switched.

1. Switched IXC services are also known as Message Telecommunications Services (MTS), long-distance, and 1+ dialing. Examples include traditional long distance (1+NPA-NXX-XXXX), casual calling (101XXXX), incoming toll-free service (e.g., 800, 888), long distance operator services, long distance directory assistance, calling card services, and pre-paid long distance debit card service. All of these services require the long distance company to pay switched access charges to the local exchange telephone company for the use of the local exchange company's local exchange network.

2. Non-switched services are also known as private line(s), dedicated service, point-to-point or point-to-multi-point service, and "special" access service. Non-switched services are provided between exchanges (i.e. interexchange) or within an exchange (i.e. local exchange). Examples include the wire(s) connecting a bank's ATM machine to the bank's main frame computer (point-to-point) and various other "data" applications (which can be from one point to another [point-to-point] – or from one point to several, although limited, other points [point-to-multi-point]). An example of "special" access is the wire(s) connecting an end-user's location directly to an interexchange carrier for the exclusive purpose of making long distance telephone calls. This method allows the long distance company to avoid paying switched access.

If Applicant is proposing to offer non-switched services without requesting local exchange authority, the tariff must state the following: "Non-switched, private line services will be provided only between exchanges and will not be offered within a local exchange."

If Applicant is proposing to provide non-switched services within a local exchange, Applicant must request authority to provide non-switched local exchange authority.

1.3 Rates for Private Line Services

Section 392.200 (8) RSMo. Cum. Supp. 1998 (<http://www.moga.state.mo.us/statutes/c300-399/3920200.htm>) allows individual case basis (ICB) pricing for private line services. The Commission has previously approved tariff wording for interexchange and non-switched local exchange private line services with ICB pricing. Copies of contracts containing individually negotiated rates for private line services are not normally filed with the Commission. Generally accepted language can be found in Section 3.34 of the Tariff Instructions.

1.4 xDSL Service

Applicant desiring to provide “data” services only (e.g. xDSL “Services”) may do so pursuant to an Application for a Certificate of Service Authority to provide Interexchange and Non-switched Local Exchange Telecommunications Service. For further information, see Section 3.35 Tariff Instructions.

The xDSL procedures **may not** be used for an Application for Certificate of Service Authority to provide Basic Local Exchange Telecommunications Service defined as “two-way switched voice service within a local calling scope as determined by the Commission.....”. Section 386.020 (4) RSMo, 1998 <http://www.moga.state.mo.us/statutes/c300-399/3860020.htm>.

SECTION II – Application Instructions

The following information may assist you in submitting a complete application.

2.0 Application Statements -

- **Public Interest Statement– 392.430** <http://www.moga.state.mo.us/statutes/c300-99/3920430.htm>

Include in the application a statement explaining why granting the requested certificate is in the public interest.

- **Pending Action or Unsatisfied Judgments Statement – 4 CSR 240-2.060 (1) (K)**
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-2.pdf>

All applications must include a statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application.

- **Annual Report or Assessment Statement – 4 CSR 240-2.060 (1) (L)**
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-2.pdf>

All applications must include a statement that no annual report or assessment fees are overdue.

2.1 Proper Secretary of State authorization – 4 CSR 240-2.060

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-2.pdf>

The application must state that the Applicant has proper Secretary of State authorization.

Include as an exhibit:

- ♦ *If a Missouri corporation*, a certificate of Good Standing from the Missouri Secretary of State's Office;
- ♦ *If not a Missouri corporation*, a certificate from the Missouri Secretary of State's Office that it is authorized to do business in Missouri;
- ♦ *If a partnership*, a copy of the partnership agreement; and/or
- ♦ *If the business will be conducted under a fictitious name*, submit a copy of the registration of the fictitious name from the Missouri Secretary of State's Office.

2.2 Services – 4 CSR 240-3.510 (1) (A)

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

The Application should contain a request to be classified as a competitive telecommunications company, if applicable, and a description of the types of service the Applicant intends to provide (i.e., interexchange and/or non-switched local).

2.3 Listing of Waivers

Applications for interexchange and non-switched local exchange service authority should contain a **listing of the waivers** of Missouri statutes and Commission rules that Applicant is requesting (392.420 RSMo <http://www.moga.state.mo.us/statutes/c300-399/3920420.htm>). The requested waivers should be among those listed below which have previously been waived by the PSC. If additional waivers are requested, Staff will make further inquiries of Applicants during the review process. All requested waivers should also be listed in the associated tariff.

Rule/Statute

392.210.2	Uniform System of Accounts
392.240.1	Just & Reasonable Rates
392.270	Ascertain Property Values
392.280	Depreciation Accounts
392.290	Issuance of Securities
392.300.2	Acquisition of Stock
392.310	Issuance of stock and debt
392.320	Stock dividend payment
392.330	Issuance of securities, debts & notes
392.340	Reorganizations
4 CSR 240-10.020	Depreciation fund income
4 CSR 240-3.545 (2)(C)	Rate schedules should be posted at central office
4 CSR 240-30.040	Uniform system of accounts
4 CSR 240-33.030	Inform customers of lowest price

SECTION III - Tariff Instructions

The following information may assist you in submitting a complete tariff.

3.0 Provision of Interexchange Telecommunications Service – Refer to 4 CSR 240-32.100 (1), (2) A-G, and (4) <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-32.pdf>

3.1 Complies with PSC Rules and Missouri Revised Statutes applicable to Applicant.

3.2 An initial tariff should have all original sheets/pages.

3.3 Listing of Waivers

Tariffs for interexchange and non-switched local exchange services should contain a *listing of the waivers* of Missouri statutes and Commission rules which are being requested by Applicant. Such waivers should have been previously granted by the PSC to other Applicants (392.420 RSMo <http://www.moga.state.mo.us/statutes/c300-399/3920420.htm>). This listing should be identical to the list of waivers requested in the application. (Refer to the waivers listed in Section 2.4 – Application Instructions).

3.4 Table of Contents – 4 CSR 240-3.545 (12) (A)

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

Tariffs should contain a "full and complete" *Table of Contents* (sections, topics and sub-topics) with the exact location where information will be found. The table of contents should be divided by general heading and subjects and should specify page or item numbers.

3.5 Explanation of Symbols/Tariff Format – 4CSR 240-3.545 (12) (K)

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

All tariffs should contain references to symbols used to make future changes to the tariff.

3.6 Overall Format

The tariff sheets shall conform to 4 CSR 240-3.545

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf> (i.e., page layout).

3.7 Check Sheets

Check sheets are not used in Missouri and should be removed from the tariffs.

3.8 Substitute Sheets

The following information should assist you in submitting substitute tariff sheets/pages.

- ❑ A cover letter must accompany substitute sheets/pages, refer to Section I - General Information for PSC filing procedures and address. This cover letter must indicate the Case Number and/or Tariff File Number for which the substitute sheets are being filed.
- ❑ Staff may request substitute sheets/pages. The sheets/pages should remain "original sheet/page" numbers with the same issue and effective date.
- ❑ Applicant must submit the original and 5 copies of the substitute sheets/pages.

3.9 Definitions – 4 CSR 240-30 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-30.pdf>

All tariffs should contain a section describing the technical terms and abbreviations pertaining to the Applicant's services.

3.10 Application of Tariff – 4 CSR 3.545

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

Use this section to describe to whom the tariff applies and under what circumstances the Applicant is providing service. The Applicant should include a statement to indicate that the Applicant operates as a "Competitive Telecommunications Company."

3.11 Undertaking of the Applicant

The tariff should state if it is for business services only, residential services only, or a combination of the two.

3.12 Company Liability

Applicant may limit its liability for its negligence in handling an emergency call.

Applicant may not limit its liability for its gross negligence or intentional wrongdoing in handling an emergency call.

3.13 Residential Service

Applicant's Practices and Procedures must not conflict with the Commission's Rules regarding monthly billing, (i.e., 21 days to payment due date, etc.) (4 CSR 240-33.040 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>).

3.14 Operator Service Requirements - <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf> and <http://www.moga.state.mo.us/statutes/c300-399/3920515.htm>

If operator services are offered, the tariff should state that such services are consistent with 4 CSR 240-33.130 and 392.515 RSMo.

3.15 Directory Assistance Services

If the rate for directory assistance service is not set forth in the tariff the following wording is required:

(Company Name) does not bill for directory assistance service.

3.16 Discontinuance of Service – 4CSR 240-33.070

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

Tariff terms should be clear and understandable. Billing should not conflict with Commission's Rules (4 CSR 240-33 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>). "(A) Customer may advise a telephone utility that all or part of a charge is in dispute by written notice, in person, or by a *telephone message...*" (emphasis added). Tariffs should not restrict customers from disputing charges by telephone. (Refer to Discontinuance of Service – 4 CSR 240-33.070 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>)

3.17 Billing for Long Distance Service – 4 CSR 240-33.040

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

The Applicant is not required to put its billing practices in the tariff, but any language used by the Applicant cannot conflict with the Commission's rules for residential customers.

3.18 Late Payment Fees – 4 CSR 240-33.040 (5)

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

If late payment fees are assessed, the rate should be in the tariff. Frequently, companies charge 1.5% on delinquent accounts.

3.19 Disputed Charges - 4 CSR 240-33.080 (1)

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

This Commission Rule states in part that "(A) customer may advise a telephone utility that all or part of a charge is in dispute by written notice, in person, or by a *telephone message...*" (emphasis added). Tariffs should not restrict customers from disputing charges by telephone.

(Refer to Discontinuance of Service – 4 CSR 240-33.070

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

3.20 Advance Payments/Deposit- 4 CSR 240-33.050 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

Advance payments/deposits can be collected when the Applicant feels it is necessary due to unknown or poor credit. However, the advance payment must be applied to the first month

billing, second month billing, etc., until the advance payment is exhausted. Otherwise, the advance payment is nothing more than a deposit.

3.21 Interest - 4 CSR 240-33.050 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

The amount of deposit is also established by 4 CSR 240-33.050 of the Commission's rules which fundamentally state that the deposit should not exceed an estimated two months' usage. It shall bear interest at a rate which is equal to one percent (1%) above the prime lending rate as published in the *Wall Street Journal*. This rate shall be adjusted annually on December 1 using the prime lending rate as published in the *Wall Street Journal* on the last business day of September of each year, plus one percent (1%). The interest shall be credited annually upon the account of the customer or paid upon the return of the deposit, whichever occurs first. Upon satisfactory payment of all undisputed charges during the last twelve (12) billing periods, it shall with accrued interest be promptly refunded or credited against charges stated on subsequent bills.

3.22 Settlement Agreements - 4 CSR 240-33.090
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

3.23 Month-to-Month Service – 4 CSR 240-33.150
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

The Applicant should not attempt to continue charging month-to-month customers after the customer has switched long distance service providers. The tariff should not restrict the customer from notifying the Applicant orally of the decision to switch providers. For customers who have committed to some form of term commitment, the provisions of the term commitment (outlined in the tariff) will apply.

3.24 Toll-Free Services

End-users are allowed to keep and “port” their toll-free numbers from one long distance Company to another (i.e., vanity numbers - 1+800-1-REEBOK or 1-888-FLOWERS - are services that can be provided by any long distance Company, depending on the end-user's choice). Long distance companies typically require bills to be current before they will port the number to a competitor. For this reason, tariff language can have wording to this effect:

(Company) will participate in porting toll-free numbers only if the account balance is zero and all undisputed charges incurred as a result of the toll-free number have been paid.

3.25 Rate Bands – 392.510 <http://www.moga.state.mo.us/statutes/c300-399/3920510.htm>

Rate bands are legally permitted for competitive companies; however, the Commission has previously indicated that customers must be notified 10 days in advance if the customer is to experience any form of rate increase as a result of rate changes occurring within rate bands. Also, if the Applicant implements rate bands, the tariff must contain a rate sheet indicating which rate is currently in effect.

3.26 Rate Schedule for Services – 4 CSR 240-3.545
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

- A) Rates have to be stated in per-minute intervals or portions thereof.
- B) If portions or increments other than one minute are used, the portion or increment must be clearly defined.
- C) If Applicant uses telecom units, the tariff must clearly state what one telecom unit equals (i.e. one telecom unit equals one minute of usage).
- D) Rates dependent on time-of-day and/or day-of-week intervals should not overlap.

3.27 Geographic Deaveraging – 392.200 (4) RSMo <http://www.moga.state.mo.us/statutes/c300-399/3920200.htm>

Geographic rate deaveraging attempts to define a telecommunications service as a different telecommunications service based on geographic area. One example of geographic rate deaveraging might be an attempt to establish special rates based on where the call originates and/or terminates. According to 392.200(4) <http://www.moga.state.mo.us/statutes/c300-399/3920200.htm>, no telecommunications company shall be allowed to engage in geographic rate deaveraging unless the company files a proposed tariff seeking relief from this subsection. In support of such a proposal the burden will be on the Applicant to demonstrate the proposed geographic rate deaveraging is reasonably necessary to promote the public interest and the purposes and policies of Missouri statutes as identified in 392.185 <http://www.moga.state.mo.us/statutes/c300-399/3920185.htm>.

3.28 Unjust rate discrimination – 392.200 <http://www.moga.state.mo.us/statutes/c300-399/3920200.htm>

Unjust rate discrimination has been found by the Commission to be applicable only when a particular customer is restricted to a particular service by a particular Company (Case No.TA-97-264). As long as the customer is not held captive to the Company (i.e., the customer has choices), no unjust rate discrimination can occur.

3.28 Taxes and Franchise Fees - 4 CSR 240-33.040 (6) (F)
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-33.pdf>

Taxes and franchise fees are required by the Commission rule to be itemized separately on the bill.

Since prior Commission approval is required for all charges and fees except taxes and franchise fees, the following tariff language is suggested:

All charges and fees subject to MoPSC jurisdiction, except taxes and franchise fees, will be submitted to the MoPSC for prior approval.

3.30 Taxes and Fees for Debit Cards (Prepaid)

Language similar to the following should be included in the tariff when offering debit cards.

The debit card service rate does not include federal excise tax or state and local taxes which are required to be paid at the point of sale. The tariffed rate does include state and local taxes, which are required to be paid on usage of the underlying telecommunications service when that service originates and terminates within a particular tax jurisdiction.

3.31 Promotional Language

Promotions for competitive companies can be allowed to go into effect on 7 days prior notice to the Commission.

3.32 Concurrences in the Terms and Conditions of an Approved Missouri Tariff – 4 CSR 240-3.545 (33) <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

If Applicant wishes to concur in a previously approved Missouri tariff, the tariff should include language as set forth in 4 CSR 240-3.545 (33)
<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

3.33 Private Line Services

Section 392.200 (8) RSMo. Cum. Supp. 1998 (<http://www.moga.state.mo.us/statutes/c300-399/3920200.htm>) allows individual case basis (ICB) pricing for private line services. The Commission has previously approved the following tariff wording for interexchange and non-switched local exchange private line services with ICB pricing:

Private line services will be made available to customers in a non-discriminatory manner. Rates for interexchange and local exchange dedicated access, private line, non-switched services will be determined on an Individual Case Basis (ICB). ICB rates will be structured to recover the Company's cost of providing the service and will be made available to the Missouri Public Service Commission Staff upon request on a proprietary basis. ICB rates will not be used for switched services.

3.34 xDSL Service - Refer to Dakota Services, Ltd. Case No. TA 99-150

If Applicant offers xDSL services, the following language must be included in the tariff:

xDSL are non-switched, local exchange technologies that allow multiple forms of data and video to be carried over standard twisted pair copper, or UNEs, on the local loop between the central office and consumer site.

Services offered by (Company) do not include access to/from the Public Switched Network. (Company) provides data connections only and does not assign or otherwise route traffic by the use of telephone numbers, i.e. NPA-NXX-XXXX.

In the event (Company) begins to provide service to/from the Public Switched Network, (Company) will file tariffs reflecting the rates, terms, and conditions for such services.

SECTION IV – Additional Information for Subsequent Tariff Revisions

4.0 Page Revisions – 4 CSR 240-3.545 (20)

<http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>

After the tariff is approved, tariff revisions may be made to the tariff on 30 days notice and with the approval of the Commission (see exceptions in 4.1-4.2). All subsequent revisions to the tariff must not be given supplemental page or sheet numbers but must be designated, for example, “first revised” page or sheet replacing “original” page or sheet. Any additions to the tariff should be made according to 4 CSR 240-3.545 <http://www.sos.state.mo.us/adrules/csr/current/4csr/4c240-3.pdf>. For example, a page inserted between original pages 13 and 14 would be labeled original page 13.1.

4.1 Rate Increases and Decreases – 392.500 RSMo <http://www.moga.state.mo.us/statutes/c300-399/3920500.htm>

This statute imposes a requirement for customers and the Commission to be notified at least 10 days in advance of proposed rate increases, and for the Commission to be notified at least 7 days in advance of proposed decreases.

Please note that the 7/10 day tariff filings for rate decreases and increases are for changes to existing rates only. Under this statute, no other additional tariff changes are permitted to be made on 7 or 10 days notice. For example, changes to the terms and conditions of existing services, the introduction of new services, or the elimination of existing services still require a 30-day tariff filing.

Applicant is required to submit to the Commission a copy of the notification of rate increases sent to customers and a positive affirmation in writing that the notice was received by customers at least 10 days in advance of the rate’s effective date. In order to prevent delays in processing the rate increase, Staff **strongly** encourages Applicants to submit these materials along with the tariff filing. Rate increases for casual calling services (e.g. 101XXXX, Debit Card) do not require customer notification, as the customers are unidentifiable until after the call has been made. A notice of rate increases should **not** contain statements or references to rates being increased pending approval by the Commission. Customer notices must not make references to the Commission. Increases in the billing increments are considered rate increases and are subject to 392.500 RSMo <http://www.moga.state.mo.us/statutes/c300-399/3920500.htm>.

For Example: If a service has a six second billing increment, raising the increment to 30 seconds would cause the customer to pay more for the same call because the charge for the call is raised to 30 seconds instead of to the nearest six-second increment. The Commission considers such changes to be a rate increase.

4.2 Promotions

Promotions for competitive companies can be allowed to go into effect on 7 days prior notice to the Commission.